MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2016/2017

ULS2612 – LAW OF SUCCESSION

(All sections / Groups)

01 JUNE 2017
Reading Time: 9.00 a.m. – 9.15 a.m
(15 minutes)
Answering Time: 9.15 a.m – 12.15 noon
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only. Answer **ALL** questions in **PART A** and **ONE (1)** question in **PART B**.

3. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Wills Act 1959 (Act 346);
   ii. Probate & Administration Act; and
   iii. Distribution Act 1958;

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

PART A : ANSWER ALL QUESTIONS.

QUESTION 1

Mr. Romie married with his first wife, Ms. Julie in 1989 and has 2 sons, Ben and James. Due to breast cancer, Ms. Julie pre-deceased her husband in 2000. Mr. Romie than in 2005, married his second wife, Ms. Daisy and has a son, Black and 2 daughters, Lily and Rose.

Mr. Romie instructed Mr. Gan, his best friend who is a solicitor to prepare his will. Mr. Gan prepared the will according to the direction given by Mr. Romie. He then executed his will on 18 January 2015. Mr. Romie died in December the following year. In the will, both Ben and James did not receive any bequests. The sole beneficiary is his widow, Ms. Daisy.

Ben and James claimed that Mr. Romie was lacked testamentary capacity when making the will as he was diagnosed with Parkinson disease and also suffered mild dementia. Ben and James therefore claimed the said will is invalid.

Advise Ms. Daisy.

(Total: 25 marks)

QUESTION 2

Puan Annie converted to Islam and married Encik Fatah. They had a daughter named Mimie. Recently Puan Annie died testate. In her will, she stated that she wished to give Encik Fatah a bungalow house which was transfered to her by her parents before her marriage. This was objected to by Puan Annie's mother, Madam Shin who claimed that according to the family tradition, the house can only be passed to blood relatives. Madam Shin demanded that the property be returned to her family on the death of Puan Annie.

Apart from that Puan Annie also left series of stocks in a company called ABY Sdn Bhd valued at RM50,000.00. Her friend Siti was nominated to receive benefits of the stocks in the event of her death.

Furthermore, Puan Annie also has other assets such as her Employees Provident Fund (EPF) account for which she had named her younger brother Eric Ching as the nominee in the event of her death.

In addition, Encik Fatah was also named to receive all the residue of the estate which included the benefits of Puan Annie's life policy. Mimie was not named as beneficiary under the will.

Advise Encik Fatah on his late wife's will.

(Total: 25 marks)

Continued .....

QUESTION 3

"The circumstances of each case vary. In some cases it may be obvious that the claimant requires substantial provision from the deceased estate to be reasonably secure in retirement. But in more finely balanced cases, a claim for an order to build up superannuation entitlements should ordinarily have a solid foundation in the evidence. The appellant's claim lacks such a foundation." – Taken from the case of **Bates v Cooke 2015 NSWCA 278**

In light of the above, critically analyse how the situation would be considered if the case happens in Malaysia.

(Total: 25 marks)

PART B : ANSWER ONE (1) OUT OF TWO (2)

QUESTION 4

A failure to comply with the formalities required for a valid will render the will inoperative. The term "valid" means that the will satisfies all formalities prescribed by statutes. Under the Wills Act 1959, except for wills made by members of the armed forces on "actual military service" it is essential that a will is made in written form and the testator's signature is witnessed by two persons. The formalities are designed to prevent fraud and compliance to them is determined by the probate (Sidhu, 2005).

With reference to relevant authorities, critically discuss the various methods of revoking a will.

(Total : 25 marks)

Continued .....

QUESTION 5

(a) Raman and Ramen were a good friend. In 2016, Raman informed Ramen that he needed Ramen to be a witness for his will. Ramen agreed and followed Raman to Messrs Good & Good on the same day. Ramen also learned that, he was appointed as an executor for Raman's will. In order to appreciate Ramen, Raman agreed to bequeath a sum of RM50,000.00 to him and this stated in the will. Raman executed the will in front of Ramen and Mr. Good, the solicitor who prepared the will. Both Ramen and Mr. Good attested the will in the presence of Raman at a different time.

In 2017, January, Raman died in an accident. As a legal assistant in Messrs Good & Good, you are instructed by your senior partner to advise Ramen. Advise him accordingly.

(15 marks)

(b) Briefly explain the following:

(i) Abatement of legacy;

(5 marks)

(ii) Ademption

(5 marks)

(Total: 25 marks)

End of page.